

2009 DRAFTING REQUEST

Bill

Received: 09/17/2009

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Spencer Coggs (608) 266-2500

By/Representing: Dave

May Contact:

Drafter: phurley

Subject: Criminal Law - miscellaneous

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Coggs@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Increase penalties for failing to submit to DNA test

Instructions:

under current law, failure to submit to a dna sample is a 9 month jail sentence + up to \$10k fine (class A misdemeanor penalties). Request to raise it to 18 months imprisonment and \$15 to \$25k fine.

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|-----------------------|-----------------------|----------------|-----------------------|-----------------------|-----------------|
| /P1 | phurley 09/18/2009 | jdye 09/22/2009 | mduchek 09/23/2009 | _____ | mbarman 09/23/2009 | | S&L Crime |
| /1 | phurley 10/16/2009 | nnatzke 10/16/2009 | mduchek 10/16/2009 | _____ | cdurst 10/16/2009 | mbarman 03/22/2010 | S&L Crime |

FE Sent For: "/1" @ intro, 3/23/10

<END>

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By/Representing: **Dave**

This file may be shown to any legislator: **NO**

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ND
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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /P1 | phurley | 9/22 jk | MD 9/23 | 9/23 | | | S&L Crime |

FE Sent For:

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3474/P1

PJH:.....

JK
+
run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Insert analysis 1 + 2

Gen

AN ACT ...; relating to: failing to provide a biological specimen for deoxyribonucleic acid analysis and providing a penalty.

Analysis by the Legislative Reference Bureau

Under this bill, a person who is required to provide a biological specimen for DNA analysis and intentionally fails to do so is subject to a fine of not less than \$15,000 but not more than \$25,000, imprisonment for not longer than one year and six months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

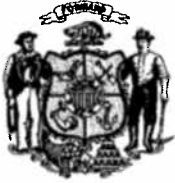
SECTION 1. 165.765 (1) of the statutes is amended to read:

165.765 (1) Whoever intentionally fails to comply with a requirement to submit a biological specimen under s. 165.76, 938.34 (15), 973.047, or 980.063 may be fined

- 1 not less than \$15,000✓ nor more than ~~\$10,000~~ \$25,000✓ or imprisoned for not more than
- 2 ~~9~~ 18✓ months or both.

History: 1993 a. 98; 1995 a. 77, 440.

- 3 (END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1911/3
RLR:nwn:jf

2009 BILL

1 AN ACT *to amend* 165.76 (3), 165.76 (4), 165.765 (1), 165.765 (2) (a) and 165.77
2 (3); *to repeal and recreate* 165.77 (4); and *to create* 165.84 (7) of the statutes;
3 **relating to:** requiring a person arrested for a felony or a juvenile taken into
4 custody for certain sexual assault offenses to provide a biological specimen for
5 deoxyribonucleic acid analysis, inclusion of the analysis results in the
6 Department of Justice deoxyribonucleic acid data bank, requiring the exercise
7 of rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the following people are required to submit biological specimens to the crime laboratories for deoxyribonucleic acid (DNA) analysis: a person sentenced or placed on probation in Wisconsin for a felony (a crime for which a person may be sentenced to prison) or one of the several specified misdemeanors; a person found to be a sexually violent person; a person on probation, parole, or extended supervision in Wisconsin for a crime committed in another state that would be a felony if committed in Wisconsin; and a person found not guilty by reason of mental disease or defect or adjudicated delinquent for certain felony sexual assaults. In addition, a court may order a juvenile who is adjudicated delinquent for certain other offenses to provide a biological specimen for DNA analysis. ~~The crime laboratories are required to analyze the DNA in the biological specimens and~~

(end ins analysis 1)

Insert
analysis 1

BILL

maintain a DNA data bank of information obtained from the analyses. The crime laboratories may compare data obtained from the analysis of specimens and may share the results of analyses or comparisons with law enforcement agencies, prosecutors, the person who submitted a specimen, and defense attorneys. The crime laboratories must expunge all data relating to a person from the data bank if the person's conviction or adjudication is reversed, set aside, or vacated and the person requests that the data be expunged. A person who is required to submit a biological specimen for DNA analysis, except a person who is committed for mental health reasons, and intentionally fails to provide a specimen is subject to a criminal penalty.

This bill requires law enforcement agencies to collect a biological specimen for DNA analysis from every adult who is arrested for a felony and every juvenile who is taken into custody for certain sexual assault offenses that would be felonies if committed by an adult. The bill further requires the crime laboratories to analyze the specimens and include information obtained from the analyses in the DNA data bank. Under the bill, the crime laboratories must expunge information about a person from the DNA data bank, at the person's request, if the person was required to submit a biological specimen only in connection with an arrest and the person is not charged with a crime within one year after the arrest, criminal charges are dismissed, or the court reaches final disposition with respect to charges in connection with the arrest and the person is not found guilty of a crime or, if found guilty of a crime, the conviction is later reversed, set aside, or vacated. Similarly, the crime laboratories must expunge information about a person from the DNA data bank, at the person's request, if the person was required to submit a biological specimen only in connection with being taken into custody as a juvenile and the state does not file a criminal complaint or delinquency petition alleging certain sexual assault offenses within a year after taking the juvenile into custody, sexual assault allegations are dismissed, or the court reaches final disposition with respect to allegations in connection with the taking into custody and the person is not found to have committed certain sexual offenses or, if found to have committed such an offense, the finding is later reversed, set aside, or vacated. A person who is required under the bill to provide a biological specimen for DNA analysis and intentionally fails to do so is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3474/PT
PJH:jld&nwn:md

1
mr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

10-16

SAJ

Regen.

- 1 AN ACT *to amend* 165.765 (1) of the statutes; **relating to:** failing to provide a
- 2 biological specimen for deoxyribonucleic acid analysis and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the following people are required to submit biological specimens to the crime laboratories for deoxyribonucleic acid (DNA) analysis: a person sentenced or placed on probation in Wisconsin for a felony (a crime for which a person may be sentenced to prison) or one of the several specified misdemeanors; a person found to be a sexually violent person; a person on probation, parole, or extended supervision in Wisconsin for a crime committed in another state that would be a felony if committed in Wisconsin; and a person found not guilty by reason of mental disease or defect or adjudicated delinquent for certain felony sexual assaults. In addition, a court may order a juvenile who is adjudicated delinquent for certain other offenses to provide a biological specimen for DNA analysis. A person who is required to provide a biological specimen for DNA analysis and intentionally fails to do so is subject to a fine not to exceed \$10,000 or imprisonment not to exceed nine months or both.

Under this bill, a person who is required to provide a biological specimen for DNA analysis and intentionally fails to do so is subject to a fine of not less than \$15,000 nor more than \$25,000 or imprisonment for not longer than one year and six months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 165.765 (1) of the statutes is amended to read:

2 165.765 (1) Whoever intentionally fails to comply with a requirement to submit

3 a biological specimen under s. 165.76, 938.34 (15), 973.047, or 980.063 may be fined

4 not ~~less than \$15,000 nor~~ more than ~~\$10,000~~ \$25,000 or imprisoned for not more than

5 9 ~~18~~ months or both.

6 (END)

Parisi, Lori

From: de Felice, David Patrick
Sent: Monday, March 22, 2010 10:54 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-3474/1 Topic: Increase penalties for failing to submit to DNA test

Please Jacket LRB 09-3474/1 for the SENATE.